

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	File No.: EB-IHD-13-00011657
)	
RB Communications, Inc., d/b/a Starfone)	NAL/Acct. No.: 201232080018
)	
)	FRN: 0012951612

MEMORANDUM OPINION AND ORDER

Adopted: May 11, 2015

Released: May 11, 2015

By the Deputy Chief, Enforcement Bureau:

I. INTRODUCTION

1. We deny the Petition for Reconsideration filed by RB Communications, Inc., d/b/a Starfone (Starfone or the Company) seeking reconsideration of the *Forfeiture Order* issued by the Commission because it relies on arguments that have been fully considered and rejected by the Commission in this proceeding.¹ In the *Forfeiture Order*, the Commission imposed a penalty of \$408,668 against Starfone for providing interstate and international telecommunications services over a four-year period without first meeting important regulatory obligations.² Starfone does not dispute that these violations occurred.

II. BACKGROUND

2. On April 13, 2012, the Commission adopted the *Starfone NAL*, which found that Starfone had apparently violated Section 214 of the Communications Act of 1934, as amended (Act) and multiple Commission rules (Rules) and proposed a forfeiture of \$408,668 for these violations.³

3. In its response to the *Starfone NAL*, Starfone did not dispute that it had violated the Act and the Rules but argued that the proposed forfeiture should be reduced because, among other reasons, imposition of the full forfeiture would inflict undue economic hardship on the Company and could cause it to go out of business.⁴ In support of this inability to pay argument, Starfone submitted its tax returns for 2011, 2012, and 2013.⁵

¹ 47 C.F.R. § 1.106(p)(3).

² *RB Commc'ns, Inc., d/b/a Starfone*, Forfeiture Order, 29 FCC Rcd 5668 (2014) (*Starfone Forfeiture Order* or *Forfeiture Order*), collection action filed sub nom. *U.S. v. RB Commc'ns, Inc., d/b/a Starfone*, C.D. Cal. Case No. CV 14-5584 CAS (JPRx) (filed July 2014).

³ *RB Commc'ns, Inc., d/b/a Starfone*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 4393, 4396 (2012) (*Starfone NAL*), forfeiture issued, *Starfone Forfeiture Order*, 29 FCC Rcd 5668, collection action filed sub nom. *U.S. v. RB Commc'ns, Inc., d/b/a Starfone*, C.D. Cal. Case No. CV 14-5584 CAS (JPRx).

⁴ See Response of RB Communications, Inc. to Notice of Apparent Liability Requesting Consent Decree Negotiations at 3, 7 (filed June 8, 2012) (on file in EB-IHD-13-00011657).

⁵ See Email from Edward A. Maldonado, Law Office of Edward A. Maldonado, PA, Maldonado Law Group, to Margaret Dailey, FCC Enforcement Bureau (Mar. 13, 2014) (enclosing 2013 tax returns for Starfone); Email from Edward A. Maldonado, Law Office of Edward A. Maldonado, PA, Maldonado Law Group, to Margaret Dailey, FCC Enforcement Bureau (Feb. 24, 2014) (enclosing 2011 and 2012 tax returns for Starfone) (collectively Starfone's March 13, 2014 and February 24, 2014 emails) (on file in EB-IHD-13-00011657).

4. On May 23, 2014, the Commission released the *Starfone Forfeiture Order* in which it imposed a penalty of \$408,668, the full amount previously proposed in the *NAL*.⁶ In that *Order*, the Commission addressed and rejected Starfone's request that the forfeiture proposed in the *NAL* be reduced based upon the Company's asserted inability to pay.⁷

5. On June 16, 2014, Starfone, now represented by different counsel, filed its Petition for Reconsideration.⁸ In that Petition, Starfone states it "does not deny the substantive allegations in the Forfeiture Order."⁹ Nevertheless, Starfone argues that the proposed forfeiture should be reduced because imposition of the full forfeiture on the Company would likely cause it to go out of business.¹⁰ In support of this inability to pay argument, Starfone again submitted its tax returns for 2011, 2012, and 2013, which, it contends, "contain revenue data not previously presented to the Commission and facts which have changed since the last opportunity to respond."¹¹

III. DISCUSSION

6. Petitions for reconsideration are granted only in limited circumstances. Reconsideration is appropriate only where the petitioner either demonstrates a material error or omission in the original order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.¹² A petition for reconsideration that simply reiterates arguments that were previously considered and rejected will be denied.¹³ Further, the Rules permit the Bureau to dismiss or deny petitions for reconsideration "that plainly do not warrant consideration by the Commission."¹⁴ This includes situations in which the petition "rel[ies] on arguments that have been fully considered and rejected by the Commission within the same proceeding."¹⁵

7. Starfone's Petition for Reconsideration fails to present information warranting reconsideration, and in fact simply reiterates arguments that the Commission fully considered and rejected in the *Starfone Forfeiture Order*.¹⁶ Because Starfone fails to raise facts that were not previously known

⁶ See *Starfone Forfeiture Order*, 29 FCC Rcd at 5674-75, para. 21.

⁷ See *id.* at 5674, para. 19.

⁸ See Petition for Reconsideration of RB Communications, Inc. (filed June 16, 2014) (on file in EB-IHD-13-00011657) (Starfone Petition for Reconsideration).

⁹ *Id.* at 3, para. 6.

¹⁰ See *id.*, para. 7.

¹¹ *Id.* at 4, para 12.

¹² See *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, para. 2 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966); 47 C.F.R. § 1.106(c)); see also *Ely Radio, LLC*, Memorandum Opinion and Order, 27 FCC Rcd 7608, 7610, para. 6 (Enf. Bur. 2012).

¹³ See *WWIZ, Inc.*, 37 FCC at 686, para. 2 (reconsideration "will not be granted merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken").

¹⁴ 47 C.F.R. § 1.106(p); see also *Amendment of Certain of the Comm'n's Part 1 Rules of Practice & Procedure & Part 0 Rules of Comm'n Org.*, Report and Order, 26 FCC Rcd 1594, 1606, paras. 27-28 (2011).

¹⁵ 47 C.F.R. § 1.106(p)(3).

¹⁶ Starfone argues in its petition that the forfeiture should be reduced because its imposition would cause the Company to go out of business. Starfone made an identical argument after issuance of the *NAL* and presented the same revenue data in support of it. In the *Starfone Forfeiture Order*, the Commission explicitly "decline[d] to downwardly adjust the proposed forfeiture notwithstanding Starfone's inability to pay request." *Starfone Forfeiture Order*, 29 FCC Rcd at 5674, para. 19. Moreover, when it took this action, the Commission had before it Starfone's tax returns for 2011, 2012, and 2013, which Starfone's prior counsel had submitted in support of the Company's inability to pay request. Compare Exhibits A-C of Starfone Petition for Reconsideration with attachments to

or existing but simply raises arguments previously considered and rejected by the Commission, we deny its petition pursuant to Section 405 of the Act and Section 1.106 of the Rules.¹⁷

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Communications Act of 1934, as amended (Act), and Section 1.106 of the Rules, the Petition for Reconsideration filed by RB Communications, Inc., d/b/a Starfone on June 16, 2014 is hereby **DENIED**.¹⁸

9. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by first class mail and certified mail, return receipt requested, to Jonathan S. Marashlian, Marashlian & Donahue, LLC, 1420 Spring Hill Road, Suite 401, McLean, VA 22102.

FEDERAL COMMUNICATIONS COMMISSION

Paula L. Blizzard
Deputy Chief
Enforcement Bureau

Starfone's March 13, 2014 and February 24, 2014 emails. Thus, contrary to Starfone's claim, its petition does not contain data or facts not previously presented to the Commission.

¹⁷ 47 U.S.C. § 405; 47 C.F.R. § 1.106.

¹⁸ 47 U.S.C. § 405; 47 C.F.R. § 1.106.